STAND. COM. REP. NO. 2593

Honolulu, Hawaii

## FEB 2 8 2014

RE: S.B. No. 2408

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2014 State of Hawaii

## Madam:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 2408 entitled:

"A BILL FOR AN ACT RELATING TO HABITUALLY OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF AN INTOXICANT,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the offense of habitually operating a vehicle under the influence of an intoxicant by:

- (1) Including within the definition of "habitual operator of a vehicle while under the influence of an intoxicant", violators who are convicted one or more times for offenses of habitually operating a vehicle while under the influence of an intoxicant; and
- (2) Amending the definition of "convicted three or more times for offenses of operating a vehicle under the influence".

Your Committee received testimony in support of this measure from the Department of Transportation; Department of the Prosecuting Attorney, City and County of Honolulu; Department of the Prosecuting Attorney, County of Maui; Office of the Prosecuting Attorney, County of Kauai; Police Department, County of Maui; Police Department, City and County of Honolulu; and one individual. Testimony in opposition to this measure was submitted by the Office of the Public Defender.

Your Committee finds that under existing law, a prior felony conviction for habitually operating a vehicle under the influence of an intoxicant (HOVUII) under section 291E-61.5, Hawaii Revised Statutes, is treated the same as a prior petty misdemeanor conviction for operating a vehicle under the influence of an intoxicant (OVUII) under section 291E-61, Hawaii Revised Statutes, for the purposes of triggering a subsequent HOVUII charge. As a result, a loophole exists when an individual committing the offense of OVUII after being convicted of the offense of HOVUII, within ten years of the current offense, may not have the same status as a habitual operator of a vehicle while under the influence of an intoxicant unless there were at least two more convictions of HOVUII, OVUII, or a combination of both within the applicable ten year period. Accordingly, this measure assists in the appropriate enforcement and oversight of these offenses and ensures that the definition of "habitual operator of a vehicle while under the influence of an intoxicant" accurately reflects the intent of the law.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2408 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committee on Judiciary and Labor,

CLAYTON HEE, Chair

## The Senate Twenty-Seventh Legislature State of Hawai'i

## Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:		Da	te: /	á
SB 2408 J		DL		2/20	1/14
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:			-	·····	
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)		V			
SHIMABUKURO, Maile S.L. (VC)			ngeniky Wajipana		
GABBARD, Mike		V			
GALUTERIA, Brickwood				4.1	V
IHARA, Jr., Les					
SOLOMON, Malama					V
SLOM, Sam					
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TOTAL		4			3
Recommendation:					
Adopted Not Adopted					
Chair's or Designee's Signature:					
Distribution:         Original         Yellow         Pink         Goldenrod           File with Committee Report         Clerk's Office         Drafting Agency         Committee File Copy					

\*Only one measure per Record of Votes